

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

THERESA LAGATELLA

Plaintiff,

v.

USDC Case No. _____

Hon: _____

WAL-MART STORES, INC., a Delaware
Corporation, d/b/a WAL-MART
SUPERCENTER,

Case No. 18-4736-NO
Hon. Carl J. Marlinga

Defendant.

Brian E. Muawad (P41209)
Attorney for Plaintiff
Brian E. Muawad, P.C.
22330 Greater Mack Ave.
St. Clair Shores, MI 48080
(586) 778-8570

Richard G. Szymczak (P29230)
Attorney for Defendant
PLUNKETT COONEY
38505 Woodward Ave., Ste. 100
Bloomfield Hills, MI 48304
(810) 342-7007
rszymczak@plunkettcooney.com

**NOTICE OF FILING REMOVAL
NOTICE OF REMOVAL TO FEDERAL COURT
VERIFICATION
CERTIFICATE OF SERVICE**

Richard G. Szymczak (P29230)
Attorney for Defendant
PLUNKETT COONEY
38505 Woodward Ave., Ste. 100
Bloomfield Hills, MI 48304
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STATE OF MICHIGAN
IN THE CIRCUIT COURT FOR THE COUNTY OF MACOMB

THERESA LAGATELLA

Plaintiff,

v.

USDC Case No. _____

Hon: _____

WAL-MART STORES, INC., a Delaware
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NOTICE OF FILING REMOVAL

To: Brian E. Muawad, Esq.
Brian E. Muawad, P.C.
2233- Greater Mack Ave.
St. clair Shores, MI 48080

Macomb County Circuit Court
Clerk of the Court
40 No. Main St.
Mt. Clemens, MI 48043

PLEASE TAKE NOTICE that Defendant has this day filed a Notice of Removal, a copy of which is attached hereto, in the office of the Clerk of the United States District Court, Eastern District of Michigan, Southern Division.

Respectfully submitted,

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**
Richard G. Szymczak (P29230)
Attorney for Defendant
38505 Woodward Avenue, Suite 100
Bloomfield Hills, Michigan 48304
Phone | 248-594-5798
Facsimile | 248-901-4040
rszymczak@plunkettcooney.com

Dated: January 11, 2019

PROOF OF SERVICE

The undersigned certifies that on the 11th day of January, 2018, a copy of the foregoing document was served upon the attorney(s) of record in this matter at their stated business address as disclosed by the records herein via:

<input type="checkbox"/> Hand Delivery	<input type="checkbox"/> Overnight Mail
<input type="checkbox"/> U.S. Mail	<input type="checkbox"/> Facsimile
<input type="checkbox"/> E-Mail	<input checked="" type="checkbox"/> Electronic E-File

I declare under the penalty of perjury that the foregoing statement is true to the best of my information, knowledge and belief.

/s/Denise Berry

Denise Berry

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
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THERESA LAGATELLA

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NOTICE OF REMOVAL TO FEDERAL COURT

Defendant, by and through its attorneys of record, PLUNKETT COONEY and Richard G. Szymczak, and pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, file this Notice of Removal based upon the following reasons:

1. On or about December 12, 2018, Plaintiff filed a civil action in the Macomb County Circuit Court, State of Michigan, bearing Docket No. 28-4736-NO,

in which Theresa Lagatella is the Plaintiff and Wal-Mart Stores, Inc., d/b/a Wal-Mart Supercenter is the Defendant. A copy of the Complaint filed in the Macomb County Circuit Court is attached to this Notice of Removal as **Exhibit A**.

2. This action, as alleged in the Complaint, is a suit brought by Plaintiff against Defendant for negligence and premises liability.

3. This action is between citizens of different states. The Plaintiff is a resident of the County of Macomb, State of Michigan. (see Paragraph 1 of **Exhibit A**). Defendant is a corporation duly created and organized by and under the laws of the State of Delaware, with its principal place of business in Bentonville, Arkansas. Defendant is not a corporation created or organized under the laws of the State of Michigan and does not have its principal place of business in the State of Michigan.

4. The action filed by Plaintiff against Defendant is one involving complete diversity of citizenship under 28 U.S.C. § 1332 as a civil action between citizens of the State of Michigan and the States of Delaware and Arkansas.

5. Defendant asserts that it is more likely than not that the amount in controversy exceeds the jurisdictional requirements of 28 U.S.C. § 1332(a) if Plaintiff prevails on her claims, based upon the relief specifically sought in Plaintiff's Complaint, wherein the total damages would be in excess of

\$75,000.00. This assertion is based upon Plaintiff's Complaint, which sets forth allegations that she sustained injuries to her right hip and leg, shoulders, neck, and extensions thereof, as well as injuring the muscles, cords, tendons and other fibers contained therein; she further sustained an aggravation, precipitation, lighting and flaring up of underlying, quiescent and dormant conditions that she further alleges will precipitate disability and that all of her injuries mentioned above are of a permanent and incurable nature.

6. This Notice of Removal is timely filed within thirty (30) days after the Complaint was filed and served upon Defendants, as the Complaint was served by certified mail on December 17, 2018.

7. A written notice of this Removal has been filed with the Clerk of the Court for the Macomb County Circuit Court, State of Michigan, as provided by law.

8. Plaintiff has asked for unlimited damages in her Complaint.

8. Based upon the foregoing, Defendant is entitled to removal of this action to the United States District Court for the Eastern District of Michigan, under 28 U.S.C. § 1441, *et seq.*

WHEREFORE, Defendant respectfully requests that it be allowed to effect removal of the within action from the 16th Circuit Court for the County of

Macomb, State of Michigan, to the United States District Court for the Eastern District of Michigan.

Respectfully submitted,

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**
Richard G. Szymczak (P29230)
Attorney for Defendant
38505 Woodward Avenue, Suite 100
Bloomfield Hills, Michigan 48304
Phone | 248-594-5798
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VERIFICATION

RICHARD G. SZYMCHAK, first being duly sworn, states that he is the attorney for Defendant and that the foregoing Notice of Removal is true in substance and in fact to the best of his knowledge, information and belief.

Respectfully submitted,

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**

Richard G. Szymczak (P29230)
Attorney for Defendant
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CERTIFICATE OF SERVICE

I hereby certify that on January 11, 2019, I electronically filed ***Defendant's Notice of Filing Removal, Notice of Removal to Federal Court, Verification, and Certificate of Service*** with the Clerk of the Court using the ECF system, or in the alternative, I have mailed by United States Postal Service to any parties that are not ECF participants.

Respectfully submitted,

PLUNKETT COONEY

By: /s/**Richard G. Szymczak**

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